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September 18, 2017

**By ECFS**

Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: **California LifeLine Coalition Written Ex Parte Presentation;  
WC Docket No. 11-42**

Dear Ms. Dortch:

On behalf of the California LifeLine Coalition (Coalition),<sup>1</sup> this letter hereby responds to the Motion for Extension of Time of the California Public Utilities Commission (CPUC) filed in the above-referenced proceeding before the Federal Communications Commission (Commission) on September 5, 2017.<sup>2</sup>

The CPUC Motion requests an extension until December 31, 2018 to implement changes to certain federal Lifeline eligibility rules adopted in the 2016 Lifeline Modernization Order,<sup>3</sup> citing “staffing constraints, unforeseen circumstances, and other time-sensitive work” as reasons why the CPUC will not be able to meet the current deadline of October 31, 2017 to implement the changes.<sup>4</sup> In support of its Motion, the CPUC notes the previous waiver granted by the

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<sup>1</sup> The Coalition’s members are Telrite Corporation d/b/a Life Wireless, i-wireless, LLC, Boomerang Wireless, LLC, and AmeriMex Communications Corp. dba SafetyNet Wireless.

<sup>2</sup> See Motion for Extension of Time of the California Public Utilities Commission, WC Docket No. 11-42 (Sept. 5, 2017) (CPUC Motion).

<sup>3</sup> See *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) (2016 Lifeline Modernization Order).

<sup>4</sup> See CPUC Motion at 4. The specific rule changes for which the CPUC seeks an extension are sections 54.400(j) and 54.409(a), which set forth the assistance programs in which consumers

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Commission and states “In compliance with the *Waiver Order*, the CPUC has incorporated both the port freeze and the Veterans and Survivors Pension Benefit Program into the California LifeLine Program in a timely manner.”<sup>5</sup> The Coalition generally supports the CPUC Motion insofar as it requests an extension to implement certain federal Lifeline eligibility rule changes. However, by this letter, the Coalition seeks to clarify the record with respect to representations in the CPUC Motion regarding the implementation of the Commission’s port freeze requirements in California so that the Commission may make a fully informed decision on the CPUC Motion. For the reasons explained herein, the Coalition respectfully submits that if the Commission is inclined to grant the CPUC Motion, it should delay the effectiveness of the grant until such time as the CPUC can demonstrate to the Commission that it has properly implemented the Commission’s port freeze rules, including a 12-month port freeze and an exceptions process that is consistent with the Commission’s rules and the Universal Service Administrative Company’s (USAC’s) implementing guidance.

**I. California Has Not Implemented The 12-Month Port Freeze For Broadband Lifeline Services**

On December 1, 2016, the Wireline Competition Bureau (Bureau) granted California a waiver until June 1, 2017 to comply with the Commission’s port freeze rules.<sup>6</sup> By June 1, 2017, the CPUC implemented a 60-day port freeze for Lifeline voice services. But the CPUC has made no progress in implementing the 12-month port freeze for Lifeline broadband services and has failed to seek a further waiver of the rules. The most recent discussion by the CPUC regarding plans to implement the 12-month port freeze was in a January 2017 decision in which the CPUC “modifie[d] the California LifeLine Program to harmonize it with elements of the newly revised federal Lifeline program.”<sup>7</sup> In the CPUC LifeLine Order, the CPUC noted simply that California had received a temporary waiver of the Commission’s 12-month port freeze requirement, and therefore “decline[d] at [that] time to address the FCC’s 12-month benefit

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may participate that may be used to demonstrate eligibility for federal Lifeline support. *See id.* at 1.

<sup>5</sup> *Id.* at 2.

<sup>6</sup> *See Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Order, DA 16-1324, ¶¶ 42, 44 (rel. Dec. 1, 2016) (Waiver Order). Oregon also received a waiver of the port freeze requirement until June 1, 2017, and has met this deadline.

<sup>7</sup> *Order Instituting Rulemaking Regarding Revisions to the California Universal Telephone Service (LifeLine) Program*, Rulemaking 11-03-013, Decision Modifying the California LifeLine Program in Accordance with Assembly Bill 2570 and The Federal Communications Commission’s Third Report and Order, D. 17-01-032, 2 (issued Jan. 25, 2017) (CPUC LifeLine Order).

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portability rule for [broadband Internet access service], reserving its consideration for a future proceeding or decision.”<sup>8</sup> However, there has been no further discussion by the CPUC about its plans to implement the 12-month port freeze in subsequent orders, resolutions, and communications with the industry. Thus, the claim in the CPUC Motion that “[i]n compliance with the *Waiver Order*, the CPUC has incorporated ... the port freeze ... into the California LifeLine Program in a timely manner”<sup>9</sup> is inaccurate with respect to the 12-month port freeze pursuant in section 54.411(a) of the Commission’s rules in California.

As noted in the *Waiver Order*, the CPUC’s initial request for an extension to implement the port freeze was based on the CPUC’s claims that “implementing the port freeze rule will require the agency to modify its Lifeline ‘inbound and outbound mailing processes, forms and letters, customer service capabilities, customer tracking system, enrollment methods, data exchange processes, and websites.’”<sup>10</sup> The Bureau found that good cause existed to grant the temporary waiver because “California will be administering the port freeze rules as an NLAD opt-out state; has demonstrated that it needs additional time to update its system; and without such updates ETCs will have no reliable method of determining whether a new customer is ineligible for Lifeline-discounted service because she has initiated Lifeline service with another ETC within the time periods specified in section 54.411.”<sup>11</sup>

Because the CPUC implemented the 60-day port freeze for voice services by the deadline set forth in the *Waiver Order*, it appears that the Bureau was correct when it determined that an extension until June 1, 2017 would “allow California sufficient time to determine how it will proceed in administering the benefit port freeze rules.”<sup>12</sup> To the best of the Coalition’s knowledge, the mechanics of a 12-month port freeze are not materially different than those of a 60-day port freeze. Both require that the Lifeline Administrator track service enrollment dates, inform ETCs when subscribers are subject to a port freeze and address applicable exceptions. The CPUC could have implemented the 12-month port freeze at the same time it implemented the 60-day port freeze (just as USAC did in the NLAD), but it chose not to. Therefore, the basis for extension of the deadline to comply with the Commission’s 12-month port freeze no longer exists and California should comply with the rule. Further, compliance with the previous

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<sup>8</sup> *Id.* at 25, n.43.

<sup>9</sup> CPUC Motion at 2.

<sup>10</sup> *Waiver Order* ¶ 43.

<sup>11</sup> *Id.*, ¶ 44.

<sup>12</sup> *Id.*

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Waiver Order cannot be a basis for California receiving further extensions of time from the Commission because California has not complied with its first extension.

**II. With Respect to the 60-Day Port Freeze For Lifeline Voice Services, California is Not Adhering to USAC Guidance Regarding the Exceptions in the Commission's Rules**

As noted above, the CPUC did comply with the deadline in the Waiver Order to implement the 60-day port freeze for voice-supported Lifeline services. In general, the port freeze was modeled on the rule adopted in the 2016 Lifeline Modernization Order, including the exception to the port freeze if the subscriber changes his or her address.<sup>13</sup> However, as explained herein, the CPUC has chosen not to follow USAC's address change exception confirmation process that requires Lifeline service providers to collect documentation demonstrating an applicant's residence at a new address if the applicant seeks to invoke the address change exception.

The 2016 Lifeline Modernization Order makes clear that "states that have opted-out of the NLAD, *in coordination with USAC*, [must] update their systems and processes to implement [the benefit port freeze] rule."<sup>14</sup> Further, in 2012, the Commission granted a request from the State of California to opt-out of participation in the NLAD. However, this opt-out was conditioned upon the state's systems being "comprehensive and at least as robust as the processes adopted by the [FCC] in the *Lifeline Reform Order*."<sup>15</sup> The Commission and the California LifeLine Administrator therefore are required to administer the benefit port freeze rule in a manner that is consistent with the NLAD processes established by USAC.

At the federal level, USAC established an exceptions confirmation process by which service providers seeking to enroll an applicant who is within a port freeze but seeks to utilize the address change exception must collect documentation demonstrating the applicant's residence at the new address.<sup>16</sup> The ten "R Codes" listed by USAC allow providers to review

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<sup>13</sup> See 47 C.F.R. § 54.411(c)(1); *see also* CPUC LifeLine Order at 59.

<sup>14</sup> See Lifeline Modernization Order ¶ 394 (emphasis added).

<sup>15</sup> See *Wireline Competition Bureau Clarifies Minimum Requirements for States Seeking to Opt Out of National Lifeline Accountability Database*, WC Docket Nos. 11-42, 03-109, 12-23, CC Docket No. 96-45, Public Notice, DA 12-1624 at 2-3 (Oct. 11, 2012) (NLAD Opt-Out Public Notice).

<sup>16</sup> See USAC Port Freeze Exception Codes, available at <http://www.usac.org/li/tools/nlad/dispute-resolution/Port-Freeze-Exception-Codes.aspx#r>.

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more than a dozen types of documents to confirm the subscriber's new address as part of the port freeze exception request. Documents must be unexpired and recent so that applicants cannot use documents showing previous residences. This process is designed to protect against consumers using a series of past addresses or addresses where they do not in fact reside to "flip" between service providers and abuse the Lifeline program.

The CPUC deviated from the standards adopted by USAC for confirming an address change when it concluded that "California LifeLine participants should not be required to provide evidence to substantiate that they meet the criteria to qualify for one of the four exceptions to the benefit portability freeze rules"<sup>17</sup> and "[a] California LifeLine participant should not have to affirmatively state or confirm that he/she is changing a residential address."<sup>18</sup> The Coalition submits that these conclusions and the accompanying implementation instructions to the California LifeLine Administrator<sup>19</sup> are inconsistent with the CPUC's obligations pursuant to the requirements of the 2016 Lifeline Modernization Order, which requires the CPUC, in coordination with USAC, to implement the port freeze rule. It further runs afoul of California's opt-out of the NLAD, which requires that California operate a duplicates database that is at least as robust as the NLAD.<sup>20</sup> Additionally, the CPUC's conclusions undermine the underlying purpose of the portability freeze rule reflected in the 2016 Lifeline Modernization Order, which is to provide stability in the service provider – subscriber relationships to promote improved Lifeline services and offerings. Thus, the Commission should remind the CPUC of its obligation to comply with USAC guidance for implementing the port freeze, including the requirement to obtain documentation of a subscriber's residence at a new address for any subscriber that seeks to invoke the address change exception to the port freeze.

The Coalition respectfully submits that it is time for the Commission to require compliance with its port freeze rules in California. Thus, if the Commission is inclined to grant the CPUC Motion, it should condition or delay the effectiveness of the grant until such time as the CPUC can demonstrate to the Commission that it has properly implemented the Commission's port freeze rules, including a 12-month port freeze for Lifeline broadband services and an exceptions process that is consistent with the Commission's rules and USAC's implementing guidance.

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<sup>17</sup> CPUC LifeLine Order at 51, 60.

<sup>18</sup> *Id.* at 52; *see also id.* at 28.

<sup>19</sup> *See id.* at 28-29.

<sup>20</sup> *See* NLAD Opt-Out Public Notice at 2-3. Therefore, the California duplicates database must have the same essential functions as the NLAD. If it does not, the opt-out can be revoked.

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Pursuant to Section 1.1206(b) of the FCC's rules, this letter is being filed electronically.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Joshua Guyan".

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cc: Trent Harkrader  
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